

The Virginia Freedom of Information Act - Rights and Responsibilities

The Virginia Freedom of Information Act (FOIA), located § 2.2-3700 et. seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees. A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies. FOIA states that its purpose is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

Your FOIA Rights

- You have the right to request to inspect or receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court.

Making a Request for Records

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing. From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing to create a record of your request and also to give us a clear statement of your request.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.
- Your request must ask for records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of the Facility.
- You may choose to receive electronic records in any format used by the Facility in the regular course of business.
- Please cooperate with any efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

Responsibilities in Responding to Your Request

- The Facility must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- If it is practically impossible for the Facility to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.

Commonly used exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure, including:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Medical records (§ 2.2-3705.5 (1) and § 32.1-127.1:03)
- Records of civil commitment proceedings (§ 2.2-3705.5 (6) and § 37.1-67.3)
- Privileged records (§ 8.01-581.17)
- Building security systems (§ 2.2-3705.2 (6))
- Working papers and correspondence of the Governor, including materials prepared for the MHMRSAS Inspector General (§ 2.2-3705.7 (2)).

For more information, please visit: www.esh.dmhmrsas.virginia.gov